

Section 3 of the Retailers' Occupation Tax Act, 35 ILCS 120/3, grants the Department discretion to make collection of Retailers' Occupation Tax upon demand of concessionaires at special exhibitions. The statute does not mandate that the Department collect the tax in this way at all events, but provides for discretionary authority to collect the tax when it is determined that there is a significant risk of loss of revenue to the State of Illinois. In cases where the Department does not collect tax at an event, merchants should file their returns as usual. (This is a GIL).

November 10, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated September 28, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I write to request a *Sales Tax Letter Ruling*. ORGANIZATION will be holding an academic convention in CITY, Illinois this coming December and have been asked by our exhibiting companies to inquire about the following:

If exhibitors do not get their business registration and/or sellers permits on time or if they get the incorrect permits where does the responsibility lie for not being in compliance with the sales tax laws? Will the individual exhibiting companies be penalized/held responsible or will responsibility lie with the ORGANIZATION who will be hosting the convention?

Please supply a *Sales Tax Letter Ruling* concerning the above mentioned questions. Your assistance is greatly appreciated.

As a general rule, retailers cannot sell tangible personal property in Illinois without registering with the Department of Revenue first. Making retail sales in Illinois without being registered is a Class A Misdemeanor punishable by a fine, imprisonment, or both. To properly register, taxpayers must complete the NUC-1 registration application, see enclosed, and receive a Certificate of Registration from the Department. Retailers' Occupation Tax liability is imposed upon the retailer. Enclosed, I have included a copy of PIO-28, the Department's publication regarding "Taxes at Fairs, Festivals, Flea Markets and Craft Shows." The principles outlined in this publication are applicable to your situation.

Section 3 of the Retailers' Occupation Tax Act, 35 ILCS 120/3, provides in part that, "[a]ny person engaged in the business of selling tangible personal property at retail as a concessionaire or other type of seller at the Illinois State Fair, county fairs, art shows, flea markets and similar exhibitions or events, or any transient merchants, as defined by Section 2 of the Transient Merchant Act of 1987, may be required to make a daily report of the amount of such sales to the Department and to make a daily payment of the full amount of tax due. The Department shall impose this requirement when it finds that there is a significant risk of loss of revenue to the State at such an exhibition or event. Such a finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of Illinois will be engaging in the business of selling tangible personal property at retail at the exhibition or event, or other evidence of a significant risk of loss of revenue to the State. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. In the absence of notification by the Department, the concessionaires and other sellers shall file their returns as otherwise required in this Section."

As you can see, this statutory language gives the Department discretion to make collection of Retailers' Occupation Tax upon demand of concessionaires at special exhibitions. The statute does not mandate that the Department collect the tax in this way at all events, but provides for discretionary authority to collect the tax when it is determined that there is a significant risk of loss of revenue to the State of Illinois. In cases where the Department does not collect tax at an event, merchants should file their returns as usual.

Persons who promote, organize, or provide retail-selling space for concessionaires or other types of sellers at events such as conventions are required to file a report with the Department. Please contact the Department's Special Events Unit for more information. The address and contact telephone numbers are included on the PIO-28.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.